

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7695

Petition of Cellco Partnership, d/b/a Verizon
Wireless, for a certificate of public good, pursuant)
to 30 V.S.A. § 248a, for the installation of antennas)
and equipment at existing telecommunications)
sites located in the Towns of Brandon, Colchester,)
Moretown, New Haven, Norwich, and Sharon,)
Vermont)

Order entered: 5/24/2011

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") approves the last of the six sites¹ included in the application filed on December 6, 2010, by Cellco Partnership, d/b/a Verizon Wireless ("Verizon Wireless" or the "Petitioner"), pursuant to 30 V.S.A. § 248a, and the Board's Procedures Order ("Procedures Order")², and grants the Petitioner a certificate of public good ("CPG") authorizing the installation of communications facilities located in the Town of Sharon, Vermont.

II. BACKGROUND

This case involves a petition and prefiled testimony filed by the Petitioner on December 6, 2010, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the construction of communications facilities in the Towns of Brandon, Colchester, Moretown, New Haven and Norwich, and Sharon, Vermont.³ Additionally, due to the limited nature of the Project, Petitioner sought waivers of the following: (1) 45-day prefiling notice

1. On March 17, 2011, the Board issued an Order in this docket approving the construction of the facilities at all of the sites with the exception of the facilities proposed to be located in the Town of Sharon.

2. *Order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*, Order issued August 14, 2009.

3. The petition originally sought approval for an additional site located in Bolton, Vermont. However, on February 4, 2011, the Petitioner filed a letter with the Board stating that it was no longer seeking approval of that site as part of the petition.

requirement;⁴ (2) requirement to notify adjoining landowners that the application has been filed;⁵ (3) requirement to file detailed site plans;⁶ and, (4) requirement to file testimony addressing all substantive criteria applicable to projects reviewed under 30 V.S.A. § 248a.⁷

On March 17, 2011, the Board issued an Order in this docket approving the construction of the facilities at all of the sites with the exception of the facilities proposed to be located in the Town of Sharon (the "Project"). The Board did not rule on the Petitioner's request for a CPG for the portion of the Project proposed for Sharon, pending further notice and opportunity for hearing, as explained in the March 17, 2011 Order in this docket.

On April 8, 2011, the Town of Sharon Selectboard filed comments in opposition to the proposed Project.

On April 22, 2011, the Petitioner filed a response to the comments filed by the Selectboard.

Also on April 22, 2011, the Department of Public Service ("Department") filed a letter stating that the Project is "consistent with the statutory criteria the Department is authorized to evaluate."⁸ The Department also asserts that the antenna mounting and design specifications should be included in the findings in the order approving the Project.

No other comments or requests for hearing regarding the Project have been filed with the Board.

The Board has determined that the petition and prefiled testimony have effectively addressed the applicable substantive criteria of 30 V.S.A. § 248a. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

4. See 30 V.S.A. § 248a(e); Procedures Order at 5 (Notice Requirements).

5. See 30 V.S.A. § 248a(j)(2)(A); Procedures Order at 6 (Filing Requirements).

6. See Procedures Order at 6-8 (Filing Requirements, E.).

7. See 30 V.S.A. § 248a(c)(1); Procedures Order at 8 (Environmental Criteria, G.).

8. Department letter at 1.

III. FINDINGS

1. The Project involves modification of Verizon Wireless facilities through the installation of Long Term Evolution ("LTE") antennas on an existing antenna support structure in the Town of Sharon, Vermont. The modifications will improve capacity and frequency spectrum within the existing coverage footprints. Lanpher pf. at 3-4.

2. The Project facilities are proposed to be located at an existing site located off Baxter Mountain Road in Sharon, Vermont. Lanpher pf. at 3.

3. At the existing site, the Petitioner currently maintains 6 panel antennas, each approximately 4 feet tall, mounted at heights of 147 feet and 137 feet, three at each level, on the 150-foot-tall steel lattice design tower. The modifications involve the replacement of the six existing panel antennas with six 71-inch by 15-inch antennas, three 54-inch by 6-inch antennas, and three 71-inch by 11-inch antennas, all to be located at a height of 147 feet on the existing tower. The antennas will be mounted on a triangular mounting platform that measures 12 feet on each side. Lanpher pf. at 5, and exh. A.

4. The tower also currently supports several additional antennas owned by other service providers, mounted on similar mounting platforms at various heights on the tower. Petitioner's response at 1, and attachments.

5. The modifications will not alter the overall appearance of the existing facilities, nor will there be any earth disturbance associated with the modifications. Finding No. 3 above; Dreher pf. at 3-4.

6. The Project will not have an undue adverse impact on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 7 and 8, below.

7. The proposed installation of the facilities will not have an undue adverse effect on aesthetics when viewed in the overall context of the existing telecommunications towers and equipment located at each site. Dreher pf. at 3-4.

8. The proposed installation of the facilities will not have undue adverse impacts to rare or irreplaceable natural areas or historic sites within the vicinity of the existing sites where the

Project will be located, because there will be no ground disturbance and because the new facilities will represent a barely discernable change from the existing facilities. Dreher pf. at 3-4.

IV. DISCUSSION

The Town of Sharon asserts that the proposed additional antennas "will have a significant negative impact on the scenic entry to the community which is of paramount importance to town residents."⁹ The Town cites to several sections of the Town Plan and Telecommunications Ordinance which call for protection of scenic resources in the construction of telecommunications facilities. The Town maintains that "it is not evident in their [the Petitioner's] application that multiple sets of narrow-profile antennas have been adequately considered."

The Petitioner asserts that the Project will result in increased wireless coverage and internet service in the area. The Petitioner also contends that the additional six antennas will not change the overall height or width of the tower and the antennas, and that the mounting platform for the proposed installation is similar to an existing mounting platform located below the proposed antennas. The Petitioner contends that the Project "which uses an existing tower, adds no height to that tower and employs hardware that closely resembles a competitor's existing brackets, complies with the land conservation measures in the Plan and Ordinance."¹⁰

We appreciate the Town's effort in alerting us to potential impacts associated with the proposed Project. Pursuant to 30 V.S.A. 248a (c)(2), before the Board issues a CPG under this section, the Board must find that "[u]nless there is good cause to find otherwise, substantial deference has been given to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively." . The Town of Sharon Selectboard has cited to various provisions of the Town Plan that seek to minimize the aesthetic impacts of telecommunications facilities, and contends that the proposed Project will have a negative aesthetic impact. However, the Project will not increase the overall

9. Town's comments at 1.

10. Petitioner's response at 2.

height or width of the existing telecommunications facility, and the Town has not shown that the Project will result in any overall increase in aesthetic impacts. Therefore, based on the information of record, we conclude that the Project will not be inconsistent with the land conservation measures in the Town Plan. In addition, the Project will result in increased wireless telecommunications coverage and improved internet service in this area and further the important statewide goal of providing wireless coverage to all areas of the State, thus, there is good cause to approve the Project.

V. CONCLUSION

Pursuant to 30 V.S.A. § 248a(a):

Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities.

Pursuant to § 248a(j)(1), the Procedures Order defines a project of "limited size and scope" as a facility that:

(a) consists of an attachment to an existing structure that does not increase the height or width of the existing structure by more than twenty feet; or (b) does not exceed 135 feet in height and does not include road building or other earth disturbance exceeding 100 square feet, other than a temporary road or earth disturbance associated with construction or installation activities.

Further, pursuant to Section (L) of the Procedures Order, regarding projects of "limited size and scope:"

Unless the Board determines that an application raises a substantial issue, it shall issue a final determination on an application within 45 days of its filing

The proposed Project will consist of attachments to an existing structure that will not increase the height or overall width of the structure and will not result in any earth disturbance associated with Project installation at the existing site. Therefore, the Project qualifies as a facility of "limited size and scope" as defined in the Board's Procedures Order governing the installation of wireless telecommunications facilities. The Procedures Order provides that the Board, in its review of facilities of "limited size and scope," conditionally waives all criteria under 30 V.S.A. § 248a(c)(1), with the exception of 10 V.S.A. § 6086(a)(8) (aesthetics, historic sites, rare and irreplaceable natural areas).

Based upon all of the above evidence, the petition does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248a, the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, and the proposed Project will promote the general good of the State.

VI. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the installation and operation of communications facilities at the location specified in the above findings, by Cellco Partnership, d/b/a Verizon Wireless, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 24th day May, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: May 24, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.